

**CITY OF ELLSWORTH**  
**REQUEST FOR PROPOSALS FOR ENGINEERING SERVICES**  
**WIN: 26296.00, TITLE: ELLSWORTH 2022 MULTIUSE PATHWAY**

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The City of Ellsworth (City) is soliciting technical proposals for engineering services for a federal-aid project consisting of a bicycle and pedestrian trail, which connects the City's existing bicycle and pedestrian trail with the Downeast Sunrise Trail (approximately a 0.75 mile gap), reference WIN 26296.00. *Price shall not be mentioned in the Technical Proposal; otherwise, that proposal shall be rejected.*

The City has been awarded federal funding from the Maine Department of Transportation (MaineDOT). All work performed on the project is subject to federal and state requirements, as well as the policies and procedures in MaineDOT's Local Project Administration Manual & Resource Guide:  
[www.maine.gov/mdot/lpa/manual/](http://www.maine.gov/mdot/lpa/manual/)

**1. APPENDICES:**

- ☐ Proposer's General Information Form
- ☐ City's Title VI Assurances

**2. TECHNICAL PROPOSALS MUST BE SUBMITTED AS FOLLOWS:**

Date Due: **March 1, 2023**

Local Time: **4PM**

RFP Coordinator: Janna Richards

Title: Economic Development Director

Email address: jrichards@ellsworthmaine.gov

Three (3) hard copies are requested and should be sent to:

Janna Richards  
Economic Development Director  
City of Ellsworth  
1 City Hall Plaza  
Ellsworth, ME 04605

A digital, PDF version is also requested and should be sent to Janna Richards, [jrichards@ellsworthmaine.gov](mailto:jrichards@ellsworthmaine.gov).

**Late proposals:** Any proposal, portion of a proposal, or unrequested proposal revision received at the City after the time and date specified above will be rejected.

**3. REQUESTS FOR CLARIFICATION / RFP AMENDMENTS:**

Requests for clarification and additional information must be emailed to the RFP Coordinator listed in Section 2 above by **12PM on Wednesday, February 15, 2023**. Such correspondence must reference the WIN and Project Title in the subject line.

Responses will be posted to the City's website – <https://www.ellsworthmaine.gov/rfps/> – by the close of business on **Friday, February 17, 2023**. *Late requests for clarification will not be accepted.*

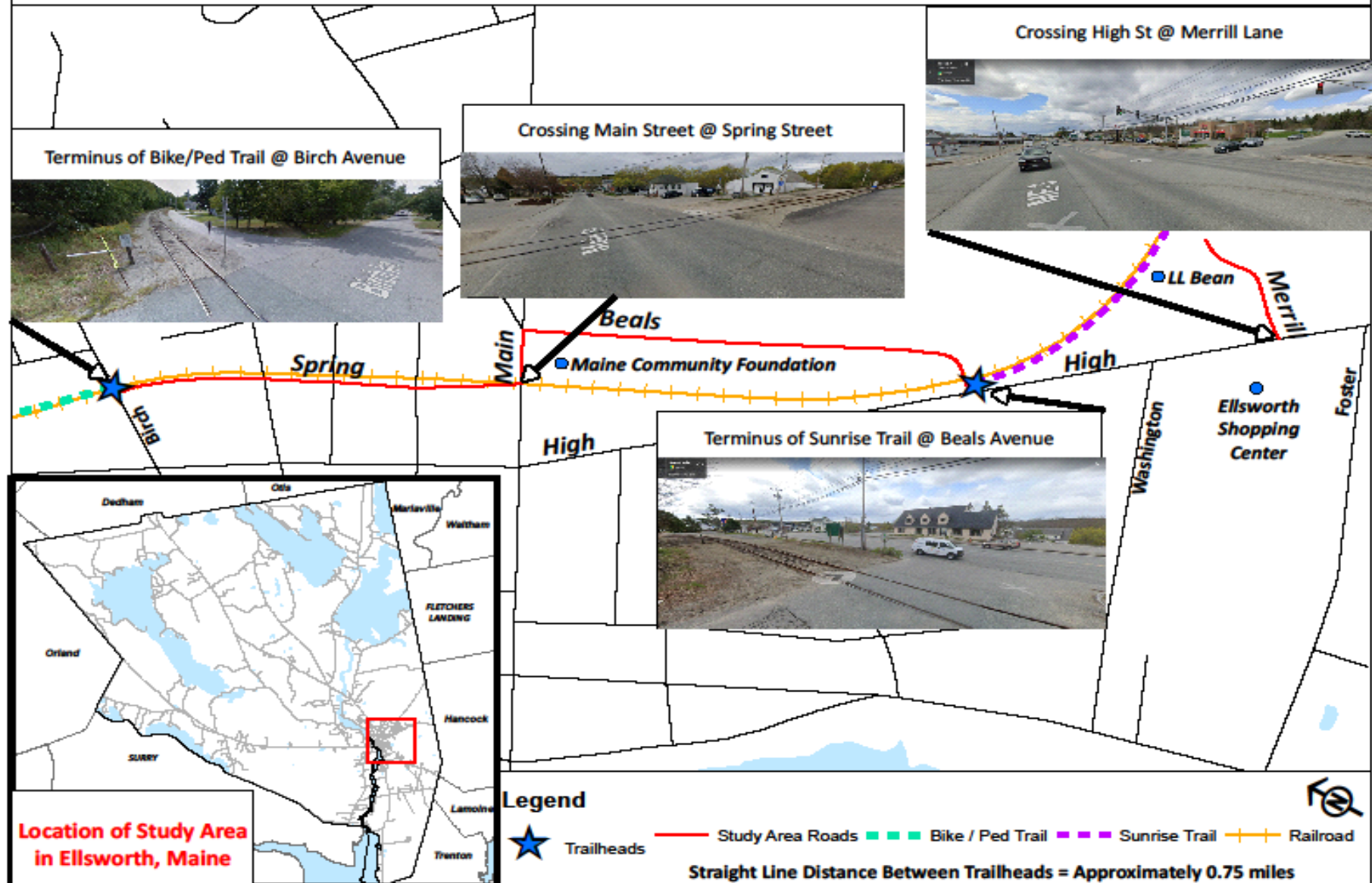
**It will be the Proposer's responsibility to check the referenced website for clarifications and amendments to this RFP.** The Proposer must reference all amendments in its response to this RFP.

#### **4. PROJECT BACKGROUND / SCOPE OF WORK / PROPOSAL REQUIREMENTS:**

##### **A. Project Background and Location Map**

In 2020, the City of Ellsworth, through a Planning Partnership Initiative with the MaineDOT, conducted a feasibility study on a proposed multiuse pathway, beginning at the terminus of the City's existing bicycle/pedestrian trail (in the vicinity of Birch Avenue) and connecting to the terminus of the Downeast Sunrise Trail (in the vicinity of Beals Avenue), an approximate distance of 0.75 miles. The feasibility study resulted in an evaluation of alternative routes and associated probable costs for these improvements. The City is now accepting proposals from qualified engineering firms to provide engineering services for preliminary engineering and design for this pathway, as well as to aid in the right-of-way process. A location map is provided on the next page.

# Ellsworth Bicycle / Pedestrian Trail Assessment



## **B. Project Scope of Work**

The successful Proposer will design/engineer the entire length of the project, both Phase I and Phase II as described below, as well as engage in the right-of-way process for the entire length of the proposed multiuse pathway. It is expected that the Proposer's engineering plans will include all necessary safety and infrastructure improvements, including drainage, to prepare for the construction phase of the project. It is also expected that the Proposer will review the City of Ellsworth's Bicycle/Pedestrian Trail Connectivity Feasibility Study (<https://www.ellsworthmaine.gov/wp-content/uploads/2021/02/DRAFT-TRAIL-FEASIBILITY-STUDY-%E2%80%93-FEBRUARY-2021.pdf>) for background information and for understanding of recommended pathway routes, and associated safety and infrastructure improvements and costs.

Phase I (Birch Avenue to Main Street):

- Birch Avenue to Park Street – Shared Use Path Adjacent to Rail
- Park Street to Church Street – Convert Spring Street to Shared-Use Path
- Church Street to Main Street – Convert Spring Street to Shared-Use Path and Dead-End and Realign Spring Street

Phase II (Main Street to Downeast Sunrise Trail)

- After further evaluation through this project's process, one of three recommended alternatives as outlined in the bike/ped trail connectivity feasibility study will need to be selected.
- The specific improvements will be based upon the alternative selected. The feasibility study does provide the specific improvements for each of these recommended alternatives, which, after an alternative is chosen, can be used to aid in the design and engineering.

The Proposer should be prepared to complete the following minimum tasks:

### **1. Preliminary Engineering**

- a. Survey and Right-of-Way Mapping
- b. Utility Coordination
- c. Railroad Coordination
- d. Prepare Existing Conditions plan – Meet with City/MDOT/Other stakeholders as necessary to gather information to inform plan
- e. Conduct public informational meeting - Meet with key property stakeholders
- f. Prepare Preliminary Design Report (60% Design)
- g. Analysis of multiple Phase II options to determine Final Pathway – Meet with City/MDOT/Other stakeholders as necessary to gather information for analysis and discuss action steps to move forward with Phase II Final Pathway option
- h. Meet with City Staff/stakeholders to review 60% plans

### **2. Final Design**

- a. Prepare Plan Impacts (75-80% Design)
- b. Prepare utility agreements
- c. Coordinate with ROW Consultant for ROW acquisition
- d. Meet with City Staff/Stakeholders to review 80% plans
- e. Present 80% plans to City Council with City Staff

### 3. Environmental Review/ Permitting

- a. Submit applications for environmental permits to appropriate agencies as necessary

### 4. Final PS&E (100% Design)

- a. Finalize utility coordination
- b. Prepare Final Plans
- c. Prepare Engineer's Estimate
- d. Prepare Bid Specifications
- e. Meet with City Staff/Stakeholders to review final plans

It is anticipated the consultant selection process will be completed in Winter 2023, with the final design and engineering, as well as the right-of-way negotiations, expected to be completed no later than June 2026.

## **C. Technical Proposal Requirements**

The proposals shall include as a minimum, the following information:

- Cover Letter:
  - Introducing the firm(s) and highlighting the qualifications as they relate to this project.
- Team:
  - Statement of qualifications including a resume and related experience for each key team member expected to perform on this contract.
  - List/Resumes of any sub-consultants and what work they will perform.
- Experience:
  - Description of relevant and/or similar projects and responsibilities completed by the consultant(s) in the last five (5) years.
  - Firms experience with projects having state and federal transportation funds- Specifically MDOT's BikePed Program and Local Project Administration Projects.
  - Firms experience delivering projects on schedule and on budget
- Understanding:
  - Provide a brief summary of your understanding of the project.
- Approach:
  - Describe your recommended approach and deliverables to complete the tasks outlined in the scope of services (above).
- Schedule:
  - Provide a project timeline/schedule.
- References:
  - Names, addresses (including e-mail), and telephone numbers of representatives of current or recent clients familiar with the services your firm and project team (three suggested).
- Additional Information: Provide any additional information you consider essential to the proposal.

## **5. PREQUALIFICATION**

The successful Proposer must be pre-qualified by MaineDOT under Service Number 209.10 – Bicycle/Pedestrian Facilities Design.

## 6. SCORING CRITERIA FOR TECHNICAL PROPOSAL

- a. **Experience (25 points)**: Describe the Proposer's experience providing services similar to those requested for this project, involving state requirements and MaineDOT design standards. Identify at least 5 projects on which your company has performed work comparable to that required in this RFP in the last 5 years. Include company name, contact name, address, and phone number, as well as a description of the project, dates of the project and results.
- b. **Qualifications (30 points)**: Identify the **key** staff who will be assigned to fulfill the contract requirements (project managers, engineers, technicians). Provide resumes describing their educational and work experiences.
- c. **Ability to stay on schedule (15 points)**:
  - i. Provide a schedule of deliverables and any other relevant milestones;
  - ii. Describe how the firm will manage its overall workload to meet deadlines for the deliverables and other relevant milestones listed above.
- d. **Ability to control costs and ensure quality (20 points)**:
  - i. Describe how the firm will control and monitor its costs;
  - ii. Describe how the firm will control quality and ensure the constructability of design plans;
  - iii. Describe how your firm intends to maintain communication with the City.
- e. **References (10 points)**: Provide at least 3 work references with contact information and descriptions of the resulting projects, with dates. The results of reference checks will be used in scoring the Technical Proposal.
- f. **Contact Information**: Provide the name, address, phone number and email address of Proposer.

## 7. TECHNICAL PROPOSAL RATING AND SELECTION PROCESS

- a. Technical Proposals will be reviewed and rated using the scoring criteria in Section 6 above.
- b. The City will select for contract award the Proposer determined to be most qualified, based on the scoring criteria.

## 8. PROPOSAL ATTACHMENTS

- **Proposer's General Information Form (Appendix A)**:  
This must be completed and accompany the Proposal.
- **Acknowledgement of Amendments**:  
The Proposer must include reference to all amendments in its response to this RFP.

## 9. PRICE PROPOSAL: *Your Technical Proposal must avoid any mention of the price of the proposed services. The City will request a Price Proposal and supporting documents from the Successful Proposer following the selection process.*

Upon completion of the initial selection process, the successful Proposer will be asked to submit its Price Proposal within five (5) business days from the date of the request using a standard form found in the "Consultants" section of MaineDOT's Local Project Administration website:

<https://www.maine.gov/mdot/lpa/lpadocuments/>

Upon receipt, the City will compare the Price Proposal against its independent estimate of the price of the requested services and begin negotiating a contract with the Successful Proposer.

The Price Proposal must include project location, WIN and phase(s) of work, as well as firm name, address, contact and email address. Additionally, the following documents must be submitted by the successful Proposer:



- **Completed Consultant's Detailed Price Proposal Form**  
<https://www.maine.gov/mdot/lpa/lpadocuments/>
- **Direct Labor Expenses / Employee Classifications:**  
 The Price Proposal must include each employee's classification and direct labor rate, based on the actual rate of pay. *A cap on direct labor of \$62.00 per hour for the project manager and quality control engineer, and \$50.00 per hour for all other personnel, applies to this project. Otherwise, a completed Wage Rate Waiver Form shall be submitted for the consideration of the City, in consultation with MaineDOT.*
- **Overhead Rate:**  
 The Price Proposal must show a current overhead rate approved by MaineDOT's Office of Audit. If a current Audited Overhead Report (AOR) is not on file with MaineDOT, one must be provided. If there are changes to an approved overhead rate following contract execution, the Consultant must submit an updated AOR to MaineDOT's Office of Audit for approval.  
*Note: A fixed commercial rate may be used, with permission, for small firms with no Audited Overhead Report.*
- **Profit:**  
 Proposed profit is based on factors such as degree of risk, relative difficulty of work and size of a job. It must fall within the range of 6% to 15%. *Note: Justification must accompany proposed profit rates exceeding 10%.*
- **Itemized Direct Expenses:**  
 Project specific non-salary expenses such as printing, tolls, mileage (45 cents/mile) and subconsultant costs that are not included in the Direct Labor, Profit and Overhead rates.
- **Total Proposed Cost:**  
 The sum of all Direct Labor, Overhead, Direct Expenses and Fixed Fee/Profit.

## 10. CONTRACT REQUIREMENTS

*The following documents will be requested from the Successful Proposer upon completion of the selection process. They must **NOT** be submitted with your Technical Proposal.*

- **Appendix A-1 Form:** *ctrl + ([click to open form](#))*  
 Appendix A-1 shall be completed using the proposed Overhead and Profit Rates from the Consultant's Detailed Price Proposal Form. The Consultant must list names and classifications of employees who will – or potentially will – work on the specified project. Employee rates listed must be actual rates paid, as supported by certified payroll. Form A-1 must be signed by an authorized financial or payroll representative of the Consultant firm.
- **Insurance Certificates:**  
 Insurance Certificates (Accord Form) must show proof of the following minimum coverages:
  - Professional Liability or Negligent Acts, Errors and Omissions Policy - \$1,000,000 per claim and annual aggregate
  - Commercial General Liability, listing the City as additional insured - \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
  - Automobile Liability - \$1,000,000 per occurrence
  - Worker's Compensation – in accordance with the laws of the State of Maine.
  - Excess/Umbrella Liability (if applicable).

- **Insurance Waiver Form (if applicable):**

Consultants not meeting the minimum insurance requirements set out above must submit an Insurance Waiver Request Form and their insurance certificates to the City for review.

- **Disadvantaged Business Enterprise (DBE) Form:** *ctrl + (click to open form)*

The DBE Form must list all Subconsultants to be used on the project and identify whether they are DBE, WBE or Non-DBE. The DBE Form also must show the percentage of Subconsultant work that makes up the total contract value and must reflect whether the Prime Consultant itself is a DBE.

- **Subconsultant Proposal (if applicable):**

If a Subconsultant will work on the project, the Prime Consultant must submit the Subconsultant's Proposal with an itemized cost breakdown as supporting documentation. Additionally, if a Subconsultant will perform at least 25% of the value of the original contract or a subsequent modification, the Subconsultant's completed A-1 Form and Audited Overhead Report must be submitted.

## **11. PACKAGING AND SUBMITTING YOUR TECHNICAL PROPOSAL**

- a. **Organization and Format:** Your Technical Proposal, which must be organized as closely as possible to the format and sequence indicated in these Proposal instructions (Section 4.C), must be submitted as set out below.
- b. **WIN and Project Title:** The Proposer's full business name and address, as well as the project WIN and Project Title, must be included on the cover page of your Technical Proposal.
- c. **Proposal Package Submittal:** The Technical Proposal must be submitted in hard copy and electronically by email to the RFP Coordinator listed on the first page of this RFP, with the WIN and Project Title in the email subject line (See Section 2 above).
  - **ANY TECHNICAL PROPOSAL THAT MENTIONS PRICE SHALL BE REJECTED.**
  - **A COMPLETED "PROPOSER'S GENERAL INFORMATION FORM" (ATTACHMENT A) MUST BE INCLUDED WITH YOUR TECHNICAL PROPOSAL.**

## **12. TERMS & CONDITIONS / FUNDING SOURCE**

- a. Since this project involves funding from MaineDOT, the contract resulting from this RFP will be governed by applicable provisions of MaineDOT's Consultant General Conditions: <https://www.maine.gov/mdot/cpo/docs/general/2020/ConsultantGeneralConditions4212020.pdf>
- b. The primary funding source for the Project is the Federal Highway Administration (FHWA), making any contract awarded pursuant to this RFP subject to applicable sections of the Federal Contracting Provisions, also known as Form FHWA-1273.
- c. This RFP does not commit the City to pay costs incurred in submitting your Proposal.

## **13. CONTRACT TERM, TYPE AND PAYMENT METHOD**

The initial contract term shall be for a period of **three (3) years**, commencing upon full execution of the contract awarded pursuant to this RFP. The City reserves the right to modify the initial contract term and to award additional phases of the Project.

The contract type and payment method for this Project shall be determined following the selection of a successful Proposer.

## **14. DISADVANTAGED BUSINESS ENTERPRISES**

Certified Disadvantaged Business Enterprise (DBE) consultants are encouraged to apply as the prime Consultant for this work. Non-DBE consultants shall ensure that DBEs have the maximum



opportunity to participate in the performance of any project contract in accordance with MaineDOT's current requirements for DBE utilization when using subconsultants. Consultants certified by another state's transportation agency must be certified by MaineDOT.

DBE requirements are found on the website for MaineDOT's Civil Rights Office:  
<https://www.maine.gov/mdot/civilrights/dbe/>.

Information also may be obtained by contacting:

**Sherry Tompkins, Director**  
**MaineDOT Civil Rights Office**  
**16 State House Station**  
**Augusta, ME 04333**  
**Office Phone: 207-624-3066**  
**Email: [Sherry.Tompkins@maine.gov](mailto:Sherry.Tompkins@maine.gov)**

## **15. FREEDOM OF ACCESS ACT - CONFIDENTIALITY.**

Under Maine's Freedom of Access Act, Title 1 M.R.S.A. Chapter 13 §402 (3), et seq., "Public Records" (as that term is defined in Title 1 M.R.S.A. Chapter 13 §402(3)) are available for public inspection and copying once an award notification has been made.

Information submitted in response to this RFP will be considered to be "Public Records" available for public inspection and copying once a contract has been awarded. If, however, a Proposer believes that parts of its Proposal fall within one or more of the exceptions to the definition of "Public Records" set forth in Title 1 M.R.S.A. Chapter 13 §402(3), that Proposer may submit those parts of its Proposal, with each page marked "Confidential" in a separate envelope marked "Confidential". The envelope must include a non-confidential statement of the basis for Proposer's claim that those parts of its Proposal fall within one or more of the exceptions to the definition of "Public Records". Designating part of a Proposal "Confidential" does not by itself ensure that those parts of the Proposal will remain confidential.

If the City receives a request to inspect or copy those parts of the Proposer's Proposal marked confidential, the City will notify Proposer that such a request has been received. Any Proposer claiming documents are confidential shall, within 14 days of receiving the City's notice, send the City a list identifying each document that it claims is confidential. If the City agrees that the documents so identified fall within one of the exceptions to the definition of "Public Records", the City will notify the party requesting disclosure that the documents will be withheld. If the party seeking disclosure files a legal action to gain access to the confidential information, the Proposer must retain counsel and file for a protective order. Proposer's failure to join the action and secure a protective order shall constitute a waiver of its claim that the information is confidential. The City will comply with the order issued by the reviewing court.

## **16. DEBARMENT CERTIFICATION**

By submitting to this RFP, the Proposer certifies to the best of its knowledge and belief that the organization, its principals, and any subcontractors named in a Proposal submitted in response to this RFP:

- a. Are not debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.

- b. Have not within three (3) years of submitting the Proposal for this contract been convicted of or had a civil judgment rendered against them for:
  - i. fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.
  - ii. violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - iii. are not indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
  - iv. have not within a three (3) year period preceding this Proposal had one or more federal, state or local government transactions terminated for cause or default.

*Failure to complete the certification may result in the disqualification of a firm's proposal.*

## **17. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

- 1. By submitting to this RFP, the Proposer certifies to the best of its knowledge and belief that:
  - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- 3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

## PROPOSER'S GENERAL INFORMATION FORM

### 1. CONTACT INFORMATION:

a. Firm Name: _____	b. Office Phone No.: _____	c. Cell Phone No.: _____
d. Contact First & Last Name: <input type="checkbox"/> Mr. <input type="checkbox"/> Ms. _____	e. Title: _____	f. Contact email Address: _____
g. Firm's Web Address: _____		h. Name of Firm's President/Managing Officer: _____

### 2. CORPORATE INFORMATION:

a. Type (select one): <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Minority Owned <input type="checkbox"/> Woman Owned <input type="checkbox"/> Small Business <input type="checkbox"/> S Corporation <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Corporation (State of origin): _____ <input type="checkbox"/> Other: _____	b. Firm's DUNS Number: _____	e. Does your firm have an Audited Overhead Report dated within the last two (2) years? <input type="checkbox"/> Yes <input type="checkbox"/> No  What is the date of your most recent Audited Overhead Report? _____
	c. Firm's Federal EIN: _____	
	d. Firm's State of Maine Vendor/Customer No.: <input type="checkbox"/> VC _____ OR <input type="checkbox"/> VS _____	
f. Is your firm a Disadvantaged Business Enterprise (DBE)? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, are you certified as such by MaineDOT's Civil Rights Office? <input type="checkbox"/> Yes <input type="checkbox"/> No		
h. Address of your Corporate Headquarters: _____		

### 3. AFFIRMATIVE ACTION:

a. Does your firm have an Equal Employment Opportunity (EEO) policy and plan? <input type="checkbox"/> Yes <input type="checkbox"/> No	b. Is your firm aware of EEO responsibilities? <input type="checkbox"/> Yes <input type="checkbox"/> No	c. Is your firm aware of MaineDOT's goals for utilization of DBE firms? <input type="checkbox"/> Yes <input type="checkbox"/> No
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#### 4. DEBARMENT, SUSPENSION, INELIGIBILITY, OR EXCLUSION:

By submitting to this RFP, I certify to the best of my knowledge and belief that the aforementioned organization, its principals, and any subcontractors named in this Proposal:

- a. Are not debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.
- b. Have not within three (3) years of submitting the Proposal for this contract been convicted of or had a civil judgment rendered against them for:
  - v. fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.
  - vi. violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - vii. are not indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
  - viii. have not within a three (3) year period preceding this Proposal had one or more federal, state or local government transactions terminated for cause or default.

Failure to provide this certification may result in the disqualification of the Firm's Proposal.

#### 5. CERTIFICATION:

By submittal of this form, I certify that this firm has not been debarred, suspended, declared ineligible or voluntarily excluded from contracts by the Federal Government or any State Agency within the last 3 years.

☐ Check Here to Agree

By submittal of this form, I certify that I have thoroughly read and understand all of the information contained in this RFP.

☐ Check Here to Agree

By submittal of this form, I certify that I have reviewed the Firm's Submittal Package to ensure that all of the required documents are included in the Firm's submittal.

☐ Check Here to Agree

By submittal of this form, I certify that all of the information contained in the Firm's Submittal Package are true and accurate and that I am an Authorized Signatory Officer of the Firm.

☐ Check Here to Agree

By submittal of this form, I certify that the typed name below (a) is intended to have the same force as a manual signature, (b) is unique to me, (c) is capable of verification, (d) is under my control, and (e) is linked to data in such a manner that it is invalidated if the data are changed, per 10 M.R.S.A. §9501, et seq.

☐ Check Here to Agree

By submittal of this form, I certify that I acknowledge any and all amendments in response to this RFP.

☐ Check Here to Agree

a. Typed Name of Submitting Authorized Officer:

\_\_\_\_\_

b. Title:

\_\_\_\_\_

c. Date:

\_\_\_\_\_

**U.S. Department of Transportation (USDOT)**  
**Federal Highway Administration – Standard Title VI / Nondiscrimination Assurances**

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**DOT Order No. 1050.2A**

The City of Ellsworth (the Recipient) **AGREES THAT**, as a condition of receiving Federal financial assistance from the U.S. Department of Transportation (USDOT) through the Federal Highway Administration (FHWA), it is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq., 78 stat. 252), which prohibits discrimination based on race, color, national origin;
- 49 C.F.R. Part 21 (entitled Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of The Civil Rights Act of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory citations are referred to hereinafter as the "Acts" and "Regulations" respectively.

**General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to assure that:

*"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from the USDOT, including the FHWA."*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other nondiscrimination requirements (the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973) by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

**Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its federally assisted Federal-aid Highway Program:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (regarding an "activity facilitated, or will be (regarding a "facility operated, or will be (regarding a "program conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made regarding all Federal-Aid Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:



"The City of Ellsworth, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively assure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

3. **The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.**
4. **The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.**
5. **That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.**
6. **That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.**
7. **The Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:**
  - a. **for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and**
  - b. **for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.**
8. **That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:**
  - a. **the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or**
  - b. **the period during which the Recipient retains ownership or possession of the property.**
9. **The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.**
10. **The Recipient agrees that the United States has a right to seek judicial enforcement regarding any matter arising under the Acts, the Regulations, and this Assurance.**



By signing this ASSURANCE, the **Recipient** also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA and USDOT access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA and USDOT. You must keep records, reports, and submit the material for review upon request to the FHWA and USDOT, or their designees, in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The **Recipient** gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal and Federal financial assistance extended after the date hereof to the recipients by the USDOT under the Federal-Aid Highway Program. This ASSURANCE is binding on the State of Maine, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Federal-Aid Highway Program. The person signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

**City of Ellsworth**

DocuSigned by:

  
DE180AD5FB0B40E...

By: \_\_\_\_\_

**Glenn Moshier, City Manager**

DATED: 9/16/2022

Encl.: Appendices A through E